

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

RUTH V. BRIGGS, .
Plaintiff, . Case No. 1:16-cv-248
vs. . 601 Market Street
Philadelphia, Pennsylvania 19106
July 16, 2018
TEMPLE UNIVERSITY, .
Defendants. .

TRANSCRIPT OF TRIAL
DAY 1 - A.M. SESSION
BEFORE THE HONORABLE ROBERT F. KELLY
UNITED STATES DISTRICT JUDGE
AND A JURY

APPEARANCES:

For the Plaintiff: Laura Carlin Mattiacci, Esq.
Stephen G. Console, Esq.
Rahul Munshi, Esq.
CONSOLE MATTIACCI LAW, LLC
1525 Locust Street
Philadelphia, Pennsylvania 19102

For the Defendant: Richard R. Harris, Esq.
Rachel Fendell Satinsky, Esq.
LITTLER MENDELSON, PC
1601 Cherry Street, Suite 1400
Philadelphia, Pennsylvania 19102

Audio Operator: Electronically Recorded
by Court Personnel

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6th Floor
Philadelphia, Pennsylvania 19103
(855)204-8184

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1 (Proceedings commence at 9:11 a.m.)

2 THE COURT: You may be seated.

3 We should deal first with the motions in limine.

4 Yes.

5 MR. MUNSHI: Good morning, Your Honor.

6 THE COURT: Good morning.

7 MR. MUNSHI: My name is Rahul Munshi, I'm here on
8 behalf of the Plaintiff Ruth Briggs.

9 Your Honor, we have filed on motion in limine in
10 this matter. And just by way of very, very brief background,
11 as Your Honor know, this is an employment discrimination and
12 retaliation case against the Defendant Temple University.

13 The plaintiff in this case, Ruth Briggs, she was
14 employed by Temple University for about 13 years before she
15 was terminated in 2014. The subject of our motion in limine
16 is to preclude various private, personal communications that
17 she had with some of her former colleagues over at Temple.
18 These were her friends. These were people who she had
19 private communications with on Facebook, online, via
20 Messenger, with no intention of anybody from Temple ever
21 seeing them. None of her supervisors at Temple, no one who
22 played any role whatsoever in any decision to terminate her
23 employment had ever seen these messages. And therefore,
24 whatever the content is there is entirely irrelevant to this
25 matter. And for those reasons, under Rule 401, we wish to

1 preclude those messages.

2 THE COURT: And these were all after her employment
3 had ended with Temple?

4 MR. MUNSHI: Some were before; some were after. In
5 the immediate aftermath of her termination on April 1st,
6 2014, she had various communications where she expressed that
7 she was no longer there. And these were all to her friends,
8 these were not posted publicly, these were simply private
9 communications. And none of these communications were with
10 anybody who played any role in the decision to terminate her
11 employment.

12 THE COURT: All right.

13 MR. HARRIS: If I may, Your Honor.

14 THE COURT: Yes.

15 MR. HARRIS: Richard Harris on behalf of the
16 defendant.

17 Your Honor, the Court asked an important question:
18 Were these communications -- did they occur before or after
19 her employment? Well, the germane -- the most important
20 communications that we're talking about and that we're moving
21 for admission, as you can see through our brief, are those
22 communications that were communicated before, that
23 specifically deal with her communications about the decision-
24 makers. So some of the messages that we're referring to, the
25 Facebook messages, are actually email, communication between

1 Ms. Briggs and others about her employer. So certainly --
2 and that's certainly relevant.

3 I would certainly submit that, even though they're
4 relevant, it goes to credibility, as well as the subjective
5 component of their claim. She has a hostile work environment
6 claim, as this Court is fully aware. There's an objective
7 component and a subjective component. And certainly, the
8 subjective component --

9 THE COURT: Well, specifically, what do you think
10 they'd be relevant to show?

11 MR. HARRIS: I think they go to -- they
12 specifically go to show her ability -- or her desire -- and I
13 will say the perception because I don't want to go into the
14 specific communications because we do have an open courtroom.
15 But the specific communications, she's actually talking about
16 the decision-makers in the case. She's talking about Mr.
17 Wacker, she's talking about mister -- Dr. Wu.

18 So she's describing her -- whether or not -- A,
19 what she thinks about them, how she describes their
20 character, what she specifically says about how they treated
21 her. Those things are certainly relevant for the jury to
22 determine, to assess her credibility. And certainly it goes
23 to the subjective component, whether or not she believed that
24 she was in a hostile work environment. And I submit that
25 those communications are certainly relevant to that point.

1 THE COURT: How does it show -- how would it show
2 that she was in a hostile work environment or not in one;
3 how?

4 MR. HARRIS: Well, I think some of the
5 communications, she describes her environment, one of which
6 she doesn't describe it as being hostile, after the fact. So
7 she's describing that she left the organization, and she does
8 not say, in any of those communications, that she was treated
9 differently based on her gender. But she describes that the
10 individuals who made the decision for her to be terminated
11 lacked courage, lacked credibility. And so all those things
12 are important, I think, for the jury to assess her
13 credibility, and certainly the question of her being in --

14 THE COURT: I'll take --

15 MR. HARRIS: -- a hostile work environment.

16 THE COURT: I'll take that under advisement. But
17 neither side should make reference to these communications,
18 until I rule on it. Okay?

19 MR. HARRIS: And the one thing that I would ask
20 this Court to look at is the Harris v. Forklift case, which
21 I submit is germane to this issue. And I think that's cited
22 in our brief, as well.

23 THE COURT: And that is your only --

24 MR. MUNSHI: Your Honor, that's our only motion in
25 limine.

1 THE COURT: Yes. Defense?

2 MS. SATINSKY: Good morning, Your Honor. Rachel
3 Fendell Satinsky on behalf of the defendant.

4 Your Honor, we have filed two motions in limine in
5 this case. The first motion in limine relates to a motion to
6 exclude testimony regarding -- testimony or documents
7 regarding a lawsuit involving a woman named Tanya Hunnewell
8 (phonetic). It's a lawsuit that was brought in 2008, that
9 Ms. Briggs was -- had some involvement in, and allegedly some
10 of the other players in this case, some of the witnesses, had
11 involvement in.

12 Your Honor, to be precluded under Rule 402 and 401
13 and 403, it's completely irrelevant to this matter. Ms.
14 Briggs' involvement in that case is irrelevant to this
15 matter. In fact, if Your Honor admitted that, we would have
16 to go into a whole sideshow of the -- whether there was
17 legitimacy to those allegations in that case. It's actually
18 a matter that was handled by plaintiff's counsel's firm. And
19 in addition to that, the matter ultimately settled. There
20 was no finding of liability on either side. And so it just
21 will confuse a jury, will require us to go into a whole
22 series of unnecessary and irrelevant questions about another
23 litigation that has nothing to do with this litigation.

24 In addition, Your Honor, the claims in that
25 litigation involved disability discrimination and

1 discrimination under the Family and Medical Leave Act. It
2 doesn't involve any of the discrimination claims that are at
3 issue in this case.

4 THE COURT: Okay.

5 MR. MUNSHI: Your Honor, again, by way of very
6 brief background, the individual who we're talking about
7 here, here name is Tanya Hunnewell. She was a former
8 employee of Temple, and during her employment there, she
9 reported to the Plaintiff Ruth Briggs; also reported to Greg
10 Wacker. Greg Wacker is an individual who will be testifying
11 at trial in this case.

12 In defendant's own motion, they go through the
13 litany of exactly why Tanya -- evidence of Tanya Hunnewell is
14 particularly relevant to this case. In their own motion,
15 they describe what transpired and the testimony that
16 plaintiff stated during her deposition, about what took place
17 when Tanya Hunnewell was employed by Temple and ultimately
18 fired by Temple; that, while she was employed there, she had
19 gone on FMLA leave. And during that time, while Plaintiff
20 Ms. Briggs and Mr. Wacker were her supervisors, Mr. Wacker
21 stated to her, find something on Tanya, I want to get rid of
22 her, discipline her.

23 And after a claim was raised, there was an
24 investigation done, and Ms. Briggs' testimony, already in the
25 deposition, was that she was being coached by Mr. Wacker, who

1 is an individual who's relevant to this case, he's an
2 individual who Temple has stated played a role in the
3 decision to terminate Ms. Briggs' employment; he's the one
4 who signed the termination letter. Ms. Briggs testified that
5 Mr. Wacker coached her to lie about what took place there.
6 So this issue about Tanya Hunnewell goes directly to the
7 credibility of Mr. Wacker.

8 Also, this evidence is relevant because it goes
9 directly to why Ms. Briggs, over and again, kept telling
10 everybody at Temple, I am afraid of retaliation, I'm scared.
11 These are her words in writing, "I'm scared." And she ties
12 one of the reasons why she's scared of complaining, and why
13 she's afraid of retaliation, is that I've been down this road
14 with Greg Wacker, and I know what he's going to do, he's
15 going to find something against me.

16 So this issue of Tanya Hunnewell, we have no
17 intention of trying the Tanya Hunnewell case here, but it is
18 very relevant for both Mr. Wacker's credibility and to
19 explain Ms. Briggs' reasonable belief why she was so scared
20 of being retaliated against, which is, ultimately, what
21 happened.

22 THE COURT: Okay.

23 MS. SATINSKY: Your Honor, if I might. Just to
24 note, there was no adverse action taken against Ms. Briggs in
25 connection with this alleged Tanya Hunnewell incident. As

1 Your Honor is likely well aware, there's many -- much case
2 law on the fact that claims of discrimination that are not
3 the same types of discrimination claims at issue in a case
4 are typically not relevant -- are typically not relevant and
5 not admissible.

6 Again, the claims that were brought in that
7 litigation relate to disability discrimination and
8 discrimination under the Family Medical Leave Act. The
9 complaint in that case -- again, the matter was settled.
10 There was no finding of liability. We're going to have to
11 explain to the jury that that matter was settled, what that
12 means, that they can't draw any inferences from that. We
13 will be going into a full description of the Tanya Hunnewell
14 matter, which has no relevance on this case whatsoever.

15 THE COURT: Okay. I'll take it under advisement.
16 During the jury voir dire, don't make any reference to it,
17 either side.

18 MR. MUNSHI: Understood.

19 MS. SATINSKY: Thank you, Your Honor.

20 And just one other point, if I may. As of this
21 morning, we hadn't received any oppositions to our motion in
22 limine filed with the Court. That may have changed. But as
23 of this moment, I haven't seen oppositions to either of our
24 motions in limine.

25 THE COURT: All right.

1 MS. SATINSKY: The second motion in limine we
2 filed, Your Honor, when we --

3 THE COURT: Do you want to sit down or stand up?

4 MR. MUNSHI: I was just going to say we don't
5 oppose the second motion, so we can --

6 THE COURT: All right.

7 MR. MUNSHI: -- perhaps, save time there.

8 THE COURT: Okay. Anything further, before we have
9 the jury come in?

10 MR. HARRIS: No, Your Honor.

11 THE COURT: In looking over the voir dire questions
12 -- and normally, in civil cases, I don't stay on the bench
13 while the voir dire is taking place, but I will in this case.
14 But I -- these questions are rather extensive. I'm afraid
15 they might have the effect of prolonging jury selection. Say
16 something.

17 MR. HARRIS: (Not identified) Judge, I --

18 THE COURT: I'm giving encouragement.

19 MR. HARRIS: I'm going to encourage this Court that
20 it will not last too long, Judge. We're -- I certainly
21 understand --

22 THE COURT: I mean --

23 MR. HARRIS: -- the Court's reticence --

24 THE COURT: -- there are a lot --

25 MR. HARRIS: -- based on what --

1 THE COURT: -- of questions here.

2 MR. HARRIS: -- we have provided. There are a lot
3 of questions. And in an abundance of caution, we provided
4 more questions than we're actually going to ask, so we
5 understand.

6 THE COURT: Okay. You'll understand if I have you
7 come to sidebar?

8 MR. HARRIS: Yes, I understand that.

9 THE COURT: And -- okay.

10 MR. HARRIS: I would be surprised if this Court
11 didn't ask me to come to sidebar.

12 THE COURT: No, I just mean during the voir dire,
13 to maybe request that it be shortened up some.

14 MR. HARRIS: Sure.

15 THE COURT: But anything further, before we get the
16 panel in?

17 MR. HARRIS: No, Your Honor.

18 MS. MATTIACCI: (Not identified) Your Honor, could
19 we just get a short explanation from you, and your preference
20 for how to conduct this? Would you prefer for us to ask
21 these questions, and plaintiff go first, and then have
22 defendant ask their questions?

23 THE COURT: Yes, I -- normally, plaintiff asks your
24 questions.

25 MS. MATTIACCI: Okay.

1 THE COURT: And then defense would follow up.

2 MS. MATTIACCI: Okay.

3 THE COURT: Yeah.

4 MS. MATTIACCI: Thank you.

5 THE COURT: All right. I'll go off the bench until
6 the panel is ready --

7 MR. HARRIS: Thank you.

8 THE COURT: -- which I believe will be by 9:30.

9 THE COURT OFFICER: All rise.

10 (Recess taken at 9:23 a.m.)

11 (Proceedings resume at 10:10 a.m.)

12 (Call to order of the Court)

13 (Jury panel present)

14 THE COURT: All right. Good morning, and you all
15 may be seated, except for the jury panel. I'm going to have
16 the jury panel take an oath at this time.

17 THE COURT OFFICER: Please raise your right hand.

18 (Jury panel sworn)

19 THE COURT: You may be seated. Thank you.

20 Members of the panel, you have been brought here,
21 so that we could select, from among your number, a jury of
22 eight, to hear this case that has been called. The case is
23 Ruth V. Briggs v. Temple University. The case involves the
24 plaintiff and the University, Temple. Ms. Briggs is a former
25 employee of Temple, and she has brought claims against Temple

1 University for age and gender discrimination, harassment,
2 retaliation, sex discrimination.

3 This part of the trial is what we call the "voir
4 dire." And the purpose of the voir dire is to assist counsel
5 in determining if any juror should be excused for cause or
6 any -- and to assist them in exercising their peremptory
7 challenges.

8 The attorneys representing the plaintiff, would you
9 stand and this time, and introduce yourselves, please.

10 MS. MATTIACCI: Good morning. My name is Laura
11 Mattiacci, and I'm a partner at the law firm of Console
12 Mattiacci Law. It's -- we have main offices in Philadelphia,
13 and also offices in New Jersey. And we have the privilege of
14 representing Ruth Briggs, who is the plaintiff in the case.

15 MR. CONSOLE: Good morning. I'm Steve Console, a
16 partner at Console Mattiacci.

17 MR. MUNSHI: Good morning, everyone. My name is
18 Rahul Munshi, also at Console Mattiacci law. I have the
19 privilege of representing Ruth Briggs in this matter.

20 THE COURT: Thank you. You may be seated.

21 Defense counsel, please introduce yourselves to the
22 panel.

23 MR. HARRIS: Thank you, Your Honor.

24 Good morning, my name is Richard Harris, and I'm
25 here at counsel table with Jill Huntley Taylor, Rachel

1 Satinsky, Mr. Wacker, as well as Fay Trachtenberg, and we
2 have the honor of representing Temple University.

3 THE COURT: Okay. Thank you. Thank you very much.

4 At this time, plaintiff's counsel may conduct -- or
5 may question the panel.

6 MS. MATTIACCI: Thank you, Your Honor.

7 (Jury selection conducted 10:14 a.m. to 10:54 a.m.)

8 THE COURT: Swear the jury.

9 THE COURT OFFICER: Members of the jury, please
10 rise.

11 (Jury sworn)

12 THE COURT: At this time, we'll take a ten-minute
13 recess; the jury can go to the jury room.

14 THE COURT OFFICER: All rise.

15 THE COURT: You may follow Mark out, please.

16 (Jury excused for recess at 10:55 a.m.)

17 THE COURT: All right. The remaining members of
18 the jury panel may return to the jury room on the second
19 floor, at this time.

20 THE COURT OFFICER: You can leave your numbers or
21 throw them in the trash; you're done with them.

22 (Jury panel excused)

23 THE COURT: We'll take a ten-minute recess.

24 MR. MUNSHI: Your Honor, prior to opening
25 statements, we do just have to confirm our technology, just

1 get everything all set.

2 THE COURT: All right.

3 MR. MUNSHI: Should we do that now or should we do
4 that --

5 THE COURT: Do it now.

6 MR. MUNSHI: Okay. Thank you.

7 (Recess taken at 10:56 a.m.)

8 (Proceedings resume at 11:09 a.m.)

9 (Jury not present)

10 THE COURT: I am -- with regard to the motion in
11 limine, with the evidence relating to Tanya Hunnewell, or
12 that prior lawsuit, I am sustaining the motion in limine, and
13 so no reference to that should be made.

14 With regard to the testimony of the prior emails of
15 plaintiff -- I don't have that exact one with me here -- but
16 I am reserving ruling on that, until after I hear the
17 plaintiff testify.

18 MR. HARRIS: Very well.

19 THE COURT: All right.

20 MS. MATTIACCI: Thank you, Your Honor.

21 Your Honor, before we begin, I just wanted to make
22 a motion for sequestration of the witnesses. I understand
23 that there's one corporate designee for the defendant,
24 Gregory Wacker, but --

25 THE COURT: All right.

1 MS. MATTIACCI: -- the other witnesses.

2 THE COURT: Each side is to determine -- see to it
3 that any witnesses they plan to call remain outside of the
4 courtroom, unless there's some special reason that you need
5 them at counsel table.

6 MR. HARRIS: Yes, Your Honor, and that has been
7 done.

8 THE COURT: All right. Thank you.

9 MS. MATTIACCI: Thank you.

10 THE COURT: All right. Bring the jury in, Mark.

11 MR. HARRIS: Your Honor, we just have one other
12 point that I would like to raise to the Court, just briefly.

13 Your Honor, as the prospective juror made a
14 particularly loud statement regarding his displeasure with
15 Temple University, I would request that this Court give an
16 instruction to the jury that, obviously, evidence in this
17 case will be determined by the witnesses, and that anything
18 that was said by a prospective juror, I would ask them to set
19 that aside.

20 THE COURT: I will do so.

21 MR. MUNSHI: Your Honor, may we have just two more
22 minutes to confirm that everything is all set over here?

23 THE COURT: All right.

24 MR. MUNSHI: That way, we don't take up any more of
25 the Court's time.

1 THE COURT: All right.

2 (Pause in proceedings)

3 MS. MATTIACCI: May we ask, Your Honor? What's the
4 earliest we're allowed in the courtroom in the morning?

5 THE COURT: I'm here at 7.

6 (Laughter)

7 THE COURT: Mark can get here at --

8 THE COURT OFFICER: I would say I get here 7:45
9 ish, so --

10 MS. MATTIACCI: Okay.

11 THE COURT OFFICER: -- if you catch me, 7:45.

12 MS. MATTIACCI: We will be sure to come very early.

13 THE COURT OFFICER: I'll o pen the courtroom as
14 soon as I get here, which will be around 7:45.

15 MS. MATTIACCI: Okay. Excellent. Then we should
16 have no technology problems going forward, Your Honor,
17 because we'll have everything set.

18 THE COURT: Okay. And I think -- and the courtroom
19 will be locked, so you can leave your things here.

20 MS. MATTIACCI: Thank you.

21 (Participants confer)

22 THE COURT: Are we all right?

23 MR. MUNSHI: I think we are all set, Your Honor.
24 Thank you very much.

25 THE COURT: I guess we can turn the lights down in

1 the courtroom, if it helps.

2 MR. HARRIS: Thank you, Your Honor. I think that
3 would help.

4 THE COURT: All right. Okay.

5 (Participants confer)

6 (Pause in proceedings)

7 THE COURT OFFICER: All rise.

8 (Jury present)

9 THE COURT: You may be seated.

10 Members of the jury, before we start, at the --
11 near the end of the voir dire, one of the jurors -- one of
12 the panel members stood up and made a statement about Temple
13 University Hospital, and a problem that he had with them.
14 And I instruct you that that -- to disregard whatever his
15 problem was. And the only evidence that you should consider
16 in this case is evidence that you hear in this courtroom that
17 is under oath and subject to cross-examination.

18 And with that, we will get underway. And the way
19 we will proceed is, first, opening statements by plaintiff's
20 counsel, then the defense has the opportunity to make an
21 opening statement. It's not an argument; it's just a
22 statement as to what their case is about and how they intend
23 to prove it.

24 When those are made, then plaintiff has the
25 opportunity to call witnesses to prove her case. After the

1 witness is presented on direct examination, the witness -- or
2 the defense or the opposing side has the opportunity to
3 cross-examine that witness. When the plaintiff has finished
4 all the witnesses, then the defense has the opportunity to
5 call witnesses on their behalf.

6 When all of that is finished, each side has the
7 opportunity to make a closing argument to you. And at that
8 point -- and after that, I give you the instruction on the
9 law that applies to this case. And at that point, you will
10 then decide -- retire to decide the case.

11 Everything that you know about this case should
12 come to you in this courtroom; the testimony and other
13 evidence that is under oath and subject to cross-examination.
14 And all the law that you know about or find out about that
15 applies to this case should come to you from me.

16 And that is -- at this time, plaintiff may make the
17 opening statement.

18 MR. MUNSHI: Thank you, Your Honor.

19 May I proceed, Your Honor?

20 THE COURT: Yes, please.

21 MR. MUNSHI: Good morning, everyone. Thank you all
22 for taking the time out of your busy lives to serve on this
23 jury. I know there's some people out there who, when they
24 get that jury slip in the mail, their first thought is, Oh,
25 how do I get out of this thing? It's okay. We know. But

1 we're glad you're here.

2 And we're going to be asking you to do some tough
3 things over the next couple of days. We're going to be
4 asking a lot of you. We're going to be asking you some tough
5 questions. You're going to be hearing competing stories and
6 it's going to be up to you and you alone to decide who's
7 telling the truth and who's more believable. We're going to
8 be showing you documents. You're going to be hearing
9 testimony from witnesses and ultimately, we're going to ask
10 you to use your common sense and your judgment to render a
11 verdict in this case.

12 Unfortunately, trials like this one, they're not
13 wrapped up in an hour like you see on TV and you're not going
14 to see that DNA forensic evidence that you see on CSI and
15 you're not going have that moment that you see in the movies
16 where the person takes the witness stand and they break down
17 and they confess to being a liar and they admit to
18 everything. That would be a lot of fun, but that's not how
19 it works in real life.

20 And why is that? Because in the year 2018, you're
21 not going have an employer or an individual come in and take
22 the stand and say, You know what? You're right. I got rid
23 of this person because she's too old or I got rid of this
24 person because she's a woman or, You got me, she complained
25 and I retaliated against her. You're not going to get that

1 from a person.

2 But that doesn't mean that that stuff doesn't
3 happen in real life. The law, you're going to hear from
4 Judge Kelly, provides that the jury look at all the
5 circumstances. Look at what went on here.

6 This is called circumstantial evidence, when we're
7 going to be looking at documents and we're going to hear
8 testimony and it's all going to fit together like a puzzle.
9 Ultimately, what we're going to be doing after a couple of
10 days of testimony is put the case in your hands. You're
11 going to go back to that jury room and you're going to
12 deliberate and you're going to talk about all the things that
13 you've seen and heard over the next couple of days.

14 What we're going to be asking you to do is weigh
15 the evidence. It's going to be a little bit more complicated
16 than this, but ultimately, what we're going to ask you is if
17 we, the plaintiff, have proven by, what's called a
18 preponderance of the evidence, if we've proven that it's more
19 likely than not that the defendant, Temple University,
20 discriminated against Ruth Briggs because of her age,
21 discriminated against Ruth Briggs because of her gender or
22 retaliated against her for raising complaints of unlawful
23 conduct. That's what this case is all about.

24 And I mentioned preponderance of the evidence.
25 You've heard a little bit about that before. That's a fancy

1 word. That's a legal word. All that means is more likely
2 than not, right? So, you've got the scales of justice and if
3 one side tilts every so lightly -- 51 percent -- in one
4 direction, that's the preponderance of the evidence; it's
5 just more likely than not. It's not beyond a reasonable
6 doubt, which is a phrase you may have heard before.

7 So, let's talk a little bit about what we're doing
8 here, what this is all about. You've heard a little bit from
9 Judge Kelly, but I'm going to spend the next few minutes and
10 preview a little bit about what you're going to see and hear
11 in this trial. This is an employment discrimination and
12 retaliation case.

13 At the core of this case is a fundamental bedrock
14 principle of our American society. Here in the United
15 States, an employer cannot treat somebody differently or
16 discriminate against somebody because of their age. You
17 cannot discriminate against somebody or treat somebody
18 different because of their gender. You cannot retaliate
19 against an employee who does complain of the discrimination
20 and retaliation. These are fundamental aspects of our
21 American society and that's at issue in this case.

22 We all know this, that you can't treat someone
23 differently because of their skin color, their disability,
24 their religion. Here, we're going to be talking about age
25 and gender and these laws that we're going to be talking

1 about, they go back 50 years, Congress decided that we need
2 to have laws on the books that ensure that employees, when
3 they go to work in the United States, they are not going to
4 be treated differently because of their age or their gender
5 and they cannot be retaliated against.

6 What matters is your ability. What matters is your
7 merit. Not what you look like.

8 Now, before we go any further, I want to introduce
9 you to our client, Ruth Briggs. Ruth is here and you're
10 going to see and hear all about Ruth over the next couple of
11 days.

12 Thanks, you can sit down.

13 Ruth here is 63 years old and she is a former
14 employee of Temple University, as you know. I'll stand over
15 here. Ruth was born and raised in Maryland. She has four
16 children, four grown children in total and three
17 grandchildren, as well. She was the first person in her
18 family to go to college and she ultimately moved up to the
19 Philadelphia area a couple of decades ago.

20 In the 1990s, she and her husband got divorced and
21 she raised her four kids as a single mother outside of
22 Philadelphia. She's going to tell us a little bit about the
23 jobs she had; she worked it this entire time. She'll tell us
24 about the jobs that she had at Temple and for Temple and
25 you're going to hear from her, describe that she worked not

1 just because she needed to provide for her family, but,
2 ultimately, she's a person who really wants to do good in
3 this world.

4 She's going to tell you about the job she had in
5 the early '90s where she was working with at-risk teens and
6 incarcerated women who were pregnant and individuals who
7 needed help learning parental skills. That's what she did;
8 she was a child health care educator and she's going to tell
9 us all about that work.

10 She's going to tell us that before this whole
11 situation with Temple, she's never been fired from a job
12 before. She's going to tell us she's never filed a lawsuit
13 before. She'll tell us she's never sued her employer before.
14 But she's going to tell us why she filed this lawsuit and
15 she's going to tell you what took place at Temple, over her
16 13 years in total when she was working there and how the
17 termination that took place before her 60th birthday, how it
18 devastated her financially and emotionally.

19 Now, Ruth started working over at Temple in
20 February of 2001. Her first job there was that she was an
21 Editorial Assistant within the College of Science and
22 Technology. Basically, what she was doing is she was helping
23 a publication to come out, a journal in science. And she's
24 going to tell us that she had that job for a couple of years
25 and then she started working as an executive assistant to the

1 Dean of the College of Science and Technology; that's one of
2 the colleges over at Temple University. And she held that
3 job for about five years.

4 She'll tell us that her supervisor, she reported to
5 the Dean, her supervisor changed a few times over those
6 years. There were a couple of interim deans before they
7 found a permanent dean. So, ultimately, she had a couple of
8 different people who she reported to over the years.

9 She'll tell us that in late 2009, after eight years
10 of working over at Temple, she then changed positions and
11 became the Executive Assistant to the Chair within the
12 Department of Computer and Information Sciences. And you're
13 going to learn all about these names and you're going to
14 learn all about these times.

15 But the important thing that you're going to hear
16 and I want you to listen for is that Ruth Briggs is going to
17 el us that when she first started at Temple University in
18 February of 2001, until she moved over in 2009, for those
19 eight years, not one writeup. Not one written discipline.
20 You're not going to see anything. You're not going see any
21 suspensions. You're not going to see any performance-
22 improvement plans. Nothing for eight-plus years, until 2009
23 when she started working for a man named Dr. Wu.

24 Enter Dr. Wu. Dr. Wu is the Chair of the Computer
25 and Information Sciences Department and you're going to see

1 him take the stand in this case, so you're going to be able
2 to judge his credibility for yourself. Ruth is going to tell
3 us what it was like working under Dr. Wu. She's going to
4 tell us how he screamed at her, said to her, "Are you stupid
5 or something?" Barked orders at her. And he ruled his
6 department like, with an iron fist.

7 Through it all, even up until the very end, Ruth
8 tried to make it work. She's going to tell us all about
9 that, but you're going to see that Dr. Wu had other plans.
10 Ruth has brought this action because she was discriminated
11 against because of her age, discriminated against because of
12 her gender, and retaliated against because she complained of
13 unlawful conduct at Temple.

14 You're going to see and hear in this trial why
15 exactly Ruth feels that way. You're going to hear about what
16 happened in November of 2011. Ruth is going to tell us that
17 on November 9th, 2011, the day before her fifty-seventh
18 birthday, she's sitting in her office and Dr. Wu, her
19 supervisor, comes by. He asks her, I know it's your
20 birthday, how old are you turning. She's going to tell us
21 that she responded, 57. Then she's going to tell us that Dr.
22 Wu appeared surprise. He said to her, you know, in China,
23 women your age, women who are 55 are put out to pasture.

24 Dr. Wu was born and raised in China and he knows
25 that there is a mandatory retirement law in China that does

1 require women of Ruth's age to forcibly retire. Ruth is
2 going to tell us that Dr. Wu, her supervisor, says this to
3 her, she responds, with all due respect, we're in the United
4 States, not China.

5 An hour later, Ruth is brought down to speak with
6 Greg Wacker, who's the Director of Administration over at
7 Temple. Mr. Wacker tells her, you're getting demoted from
8 professional conduct. Ruth says, let me tell you what
9 happened here, I'm in my office, it's the day before my
10 birthday, Dr. Wu comes in, asks me how old I am, I told him
11 57, and he looks at me and says, women your age in China are
12 put out to pasture.

13 You're going to see that discipline that she
14 received in November of 2011 after working at Temple for
15 10-plus years with no prior written discipline.

16 THE COURT: You're arguing your case now.

17 MR. MUNSHI: Well, I apologize, Your Honor.

18 THE COURT: Well, don't do it. You tell the jury
19 what you expect and I don't expect it's going to take a whole
20 lot longer. It's merely an outline --

21 MR. MUNSHI: I'm just going to go through, Your
22 Honor --

23 THE COURT: Let me finish. It's merely an outline
24 of what you intend to prove.

25 MR. MUNSHI: Yes, Your Honor. You're going to see

1 over the next several days that after this situation, what
2 Ruth did at Temple University. And I'm just going to show
3 you an organizational chart over here so you can keep track
4 of some of the names that you are going to hear about over
5 the next several days.

6 Dr. Wu is the individual who Ruth Briggs reported
7 directly to. Greg Wacker is the individual who gave her the
8 written discipline in November of 2011, who she told all
9 about the comment. You're going to see and hear that Ruth
10 Briggs, during her employment at Temple, she spoke with
11 Sandra Foehl, the Director of Equal Employment Compliance, at
12 Temple. She speak with Deirdre Walton, the Director of Labor
13 Relations at Temple. She spoke with Rhonda Brown, Office of
14 Institutional Diversity. You're even going to see and hear
15 that Ruth Briggs spoke with in-house counsel at Temple all
16 about Dr. Wu and you're going to see in Ruth's own words --
17 we have it in writing -- you're going to see emails from Ruth
18 where she talks specifically about the conduct that she's
19 facing at Temple.

20 And very quickly, what I want to show you is just a
21 brief time line just to put it all together that starts in
22 November of 2011 with the comment that I just described
23 regarding Dr. Wu. Ruth Briggs goes to Rhonda Brown, who,
24 remember, is in the Office of Institutional Diversity, and
25 she is the person who Ruth goes to and says, I've got an

1 issue.

2 You're going to see that Rhonda Brown tells her, go
3 meet with Sandy Foehl, Sandy Foehl, Director of Equal
4 Employment at Temple.

5 Sandy Foehl, you know, meets with Ruth because we
6 have her notes and Sandra Foehl's own notes, she talks about
7 what Ruth said to her and you're going to see that and you're
8 going to hear from Sandy Foehl what took place and Ruth
9 talked about with regard to the age discrimination.

10 You're going to see that after Sandy Foehl meets
11 with Ruth, nothing happens. Ruth reached out to Rhonda Brown
12 and Sandy Foehl again. You're going to see a few months
13 later, nothing happens. A couple of months later, you're
14 going to see an email. Ruth Briggs goes back to Rhonda
15 Brown, what's going on here, help.

16 Rhonda Brown's response? Go to Sandy, the same
17 Sandy Foehl that we just talked about that Ruth had just
18 seen. So, Ruth goes to Sandy. She writes to Sandy
19 (indiscernible) getting harassed (indiscernible) no other
20 staff member is required to (indiscernible) a daily dose of
21 public humiliation. It's beginning to feel like
22 psychological abuse. This is her email. You're going to see
23 it.

24 Sandy Foehl's response? Ruth, address this issue
25 with Human Resources first, address the situation with

1 Deirdre Walton in Human Relations. And you're going to see
2 and hear all about what Ruth did with HR, as well.

3 Ultimately, the next day, Ruth goes to in-house
4 counsel at Temple, Cameron Etezady. She writes in an email,
5 you're going to see, I believe this it is related to my age
6 with the disparate treatment of me, I'm concerned about
7 retaliation. Ruth Briggs, you're going to see, is going to
8 try to make this work, because she's going to everybody to
9 talk about these issues and you're going to see all these
10 emails.

11 Cameron says to her, go talk to Sandy. Ruth
12 responds to Cameron and says, I've already talked to Rhonda,
13 I've already talked to Sandy. And you're going to see these
14 emails where Ruth talks, again, about Dr. Wu and the comment
15 that he made and the way that he's treating her.

16 Cameron's response? Go talk to Fay Trachtenberg,
17 another lawyer in my office, she handles employment stuff,
18 talk to her. Ruth is going to tell us she did talk to Fay.
19 Fay said talk to Deirdre Walton in HR, and it goes on and on
20 and on. You're going to see every email. You're going to
21 see every step that Ruth took to talk about what was going on
22 and how she goes and gets through (indiscernible) ultimately,
23 she goes back to Cameron, in-house counsel.

24 And you're going to see the full emails. My
25 situation is now being combatted because of my age. And

1 she's going to tell us why exactly she felt it that way and
2 why she was trying to just get help.

3 She goes back to Deirdre in Human Resources, how
4 distressing this is. These are her words. These are her
5 emails. She's going to tell you about these, I'm battered
6 emotionally.

7 She goes back to Sandy Foehl, I want to go to the
8 EEOC just for help.

9 She goes back to Deirdre Walton and in her own
10 words she talking about how I'm drowning here, I'm being
11 bullied, I'm being harassed. She's going to talk to us about
12 why she felt this way and the wringer that she's put through.

13 Ultimately, she meets with Sandy Foehl on April
14 1st, 2014, and at that meeting Ruth talks with Ms. Foehl,
15 who, remember, is the director of equal employment at Temple
16 and talks specifically about filing an age-discrimination
17 complaint with her and just the same things that for two and
18 a half years you're going see, she's been talking about.

19 Like I said, you're going to see all of these
20 emails and you'll see that all these individuals, this
21 fundamental idea of somebody there trying to help her you'll
22 see if they did it or if they failed her.

23 Let me end where I began. Later that day, after
24 she meets with Sandy Foehl, you're going to see that Ruth is
25 brought in and terminated, handed a termination letter. And

1 she's going to tell us all about what's in that letter and
2 the real story. At the end of this trial, it's going to be
3 up to you and you alone as the jurors in this case to weigh
4 the evidence in this case and decide who's telling the truth,
5 in light of everything you've seen and everything you've
6 heard.

7 And at the end of this trial, you're going to come
8 back in front of you and we're going to ask you did, in fact,
9 it happen. Did they let Dr. Wu do what he said happens in
10 China, that women of Ruth's age are put out to pasture? Did
11 we prove that it's more likely than not that Ruth Briggs was
12 discriminated against because of her age, discriminated
13 against because of her gender and retaliated against for
14 engaging in all of this activity.

15 If the defendant employer is found to be in
16 violation of the law, that employer is required to pay
17 damages to compensate the individual for their financial and
18 emotional harm. And Ruth is going to talk to us about how
19 this whole situation has impacted her. How she had to move
20 into subsidized housing. How PECO shut off her utilities.
21 How she had to file for food stamps for the first time in her
22 life at the age of 60, looking for a job and the interviews
23 that she was just hoping for.

24 And of this trial, I'll come back in front of you
25 again and we'll ask you to consider all of these things and

1 ask you to render a verdict in favor of Ruth Briggs. Thank
2 you.

3 THE COURT: Counsel, would you like to open for the
4 defense at this point?

5 MR. HARRIS: I do, Your Honor, if I may?

6 Good morning. Temple University, it's been called
7 the beacon of North Philadelphia. It is -- it stands on
8 Broad Street, 35,000 students strong. It prides itself on
9 having diversity of racial and ethnic diversity, but as well
10 as gender and diversity of thought.

11 You'll find individuals within the university,
12 within the College of Science and Technology of all ages,
13 stripes, males, females, ages, you name it.

14 When the university was founded, it was found on
15 the core principle that perseverance conquers. If my Latin
16 were better, I would be able to provide it to you in Latin,
17 but that's at the core of the university.

18 It's been said that no good deed goes unpunished.
19 You'll hear evidence from witnesses who will testify that the
20 quality of Ms. Briggs' performance in her responsibilities
21 were marginal at best from the time that she was hired at
22 Temple University. So, the question is, why would she
23 continue to stay around if, in fact, her performance was
24 deficient?

25 My first statement was that perseverance conquers.

1 That's a core cultural value of the organization. In
2 variably, individuals -- and you'll hear from witnesses who
3 will testify -- that it is an extreme difficulty, it is out
4 of university's character to terminate people immediately, so
5 we give them chances after chances after chances to succeed.
6 And you'll hear evidence from the witnesses who will testify
7 to that fact here, as it relates to Ms. Briggs.

8 There's a best-selling book on The New York Times
9 list called, Principles, by Ray Dalio. And in Ray Dalio's
10 book, he was a large hedge fund operator and in fact, he
11 decided to develop principles by which that organization and
12 other organizations could follow, as cultural values to
13 increase the quality of their decision-making and the quality
14 of their performance.

15 The premise is based on the notion of a radical
16 transparency so that if everyone in the organization is
17 accountable for their actions, if they own their mistakes and
18 they make themselves vulnerable and they accept criticism and
19 feedback and critique, then we'll have a better-performing
20 organization. That's one of the hallmarks of Ray Dalio's
21 principles. The notion is if you have that radical
22 transparency, you'll create a work environment that
23 individuals will love to come to work and individual will
24 perform better than they otherwise would.

25 The notion of providing a meaningful workforce,

1 it's something that organizations strive for. And you'll
2 hear from the individuals within the College of Science and
3 Technology, that will tell you that they enjoyed working with
4 Ms. Briggs. She was a joy to be around, that she was
5 pleasant. People certainly engaged with her on a regular
6 basis, but the problem wasn't whether or not she was affable
7 or friendly or social with the individuals within the
8 organization.

9 The problem was she couldn't accept feedback. So,
10 you'll hear witnesses testify to that over and over again.
11 And the notion is, if we increase the transparency in our
12 organization and if we accept responsibility, Ray Dalio
13 posits that that will create a more inclusive environment, an
14 environment that is based on increasing the quality of the
15 decision-making. And Bridgewater, the organization that he
16 founded, has outperformed the market on every single
17 financial entity.

18 Temple University, although it's not a for-profit
19 company, also has cultural values and those cultural values
20 are actually organized and memorialized in what is called
21 core competencies that every organization has and every
22 single individual within the organization receives these core
23 competencies and Ms. Briggs was provided those core
24 competencies, as it relates to her position as executive
25 assistant to the chair of the department, Dr. Jie Wu.

1 One of the core competencies, very similar to Ray
2 Dalio's principles, is that individuals such as Ms. Briggs,
3 they need to be accountable for their actions, so they own
4 their mistakes. And the reason why owning someone's mistake
5 is important is because that allows you to accept
6 responsibility for your actions. And if you do, that then
7 you're less likely to make that same mistake over and over
8 again, if you recognize it.

9 Evaluate Ms. Briggs when she testifies to determine
10 whether or not she owned her mistakes. Whether or not that
11 was part of her core competency, whether or not she exhibited
12 that throughout the course of her employment; that's for you
13 to determine.

14 Counsel argues that Ms. Briggs was a stellar
15 performer throughout the life of her employment. I would ask
16 that you judge that for yourself. You'll hear there was the
17 evidence of write-ups that she received throughout the life
18 of her employment and certainly while she was in the College
19 of Science and Technology.

20 I'm asking you to confront any bias that you may
21 have. You heard from your fellow prospective jurors that
22 they couldn't be fair and that's why they were dismissed from
23 this case, as Your Honor just instructed you previously. The
24 only evidence that's of any import to any of you and to all
25 of you will be on the witness stand.

1 So, you said that you would be fair. You took and
2 oath and said that you could do so. We had approximately 25
3 people sitting in the back of this courtroom and all of them
4 didn't say that they could be fair or impartial. They
5 couldn't be just passing; in fact, they had their minds made
6 up before they came into this courtroom.

7 Not you. Not you. Each and every one of you said
8 that you could be fair and that you would make your decision
9 based on the information you received, and I submit to you,
10 based on the quality of information you receive, not the
11 quantity, but the quality.

12 So, on behalf of Temple University, I want to thank
13 you. I want to thank you for taking this important oath in
14 making sure that you're going to be fair. My name is Richard
15 Harris, along with Rachel Satinsky, Fay Trachtenberg; we
16 represent Temple University and we all thank you.

17 THE COURT: The plaintiff may call the first
18 witness.

19 MS. MATTIACCI: Your Honor, would it be possible to
20 have five minutes to set up the iPad so the jury can see the
21 documents on the screen?

22 THE COURT: I guess it'll have to be.

23 MS. MATTIACCI: Let's see. Can we do it in one
24 minute? Maybe we can just plug it in.

25 (Pause in proceedings)

1 MS. MATTIACCI: Your Honor, the plaintiff calls
2 Gregory Wacker to the stand as on cross.

3 THE COURT OFFICER: The chair does not lean back.

4 (Participants confer)

5 THE COURT OFFICER: Please raise your right hand,
6 place your left hand on the Bible.

7 GREGORY WACKER, WITNESS FOR THE PLAINTIFF, SWORN.

8 THE COURT OFFICER: Please state your full name for
9 the record, spell your last name.

10 THE WITNESS: Gregory Wacker, W-a-c-k-e-r.

11 MS. MATTIACCI: Your Honor, may I approach the
12 witness to give him a binder of exhibits?

13 THE COURT: Yes.

14 MS. MATTIACCI: Thank you.

15 (Pause in proceedings)

16 MS. MATTIACCI: May I proceed, Your Honor?

17 THE COURT: Please.

18 DIRECT EXAMINATION

19 BY MS. MATTIACCI:

20 Q Okay. Good morning, Mr. Wacker.

21 A Good morning.

22 Q You are currently employed by Temple University. Is
23 that correct?

24 A Yes.

25 Q And you are the corporate designee for Temple, for this

1 trial, correct?

2 A Yes.

3 Q Okay. So you have been sitting at counsel table for
4 Temple, even though that opening statement time period,
5 correct?

6 A Yes.

7 Q Your current position is Assistant Dean for Finance and
8 Administration?

9 A Yes.

10 Q All right. And you have four reports?

11 A I believe, currently, there's three now.

12 Q Okay. Did you --

13 A Three --

14 Q -- four at --

15 A Three or four.

16 Q -- at one point?

17 A Yes, up until about a year ago, when an individual took
18 a job elsewhere, a promotion within the University.

19 Q Okay. So just so we can orient the jury as to where you
20 fall in the organization, this is you, here. Is that
21 correct?

22 MR. HARRIS: Excuse me, Your Honor. I apologize.
23 I would just ask counsel if she could move that to the side
24 because -- so I can see the jury.

25 THE COURT: Yeah, sure. Well, try to --

1 MS. MATTIACCI: Let me go -- I can go this way.

2 Okay. Is the jury okay?

3 BY MS. MATTIACCI:

4 Q All right. So this is you here, Director of Finance and
5 Administration, correct?

6 A Yes.

7 Q And you report up to the Dean (indiscernible)

8 A Yes, I --

9 Q Okay. And Dr. Wu, that we heard about in the openings,
10 he is the Chair of the Department of Computer and Information
11 Sciences?

12 A Yeah. He was, yes.

13 Q Okay. He held that position in 2014, at the time when
14 Ms. Briggs was terminated, correct?

15 A Yes.

16 Q And now he's no longer in that position?

17 A No, he is not.

18 Q So he -- his position is still in this department, but
19 it's not the Chair, correct?

20 A Yes. He is a faculty member in the department.

21 Q Now his removal as Chair was not related to this case,
22 correct?

23 A No. Chairs frequently change every three to five years.

24 Q Okay. So it's just a rotating position that the
25 different faculty members take?

1 A Yes.

2 Q All right. Now, in 2014, Ruth Briggs reported up to Dr.
3 Wu, correct?

4 A Yes.

5 Q And in 2014, Wu reported up to the Dean, as well,
6 correct?

7 A Yes.

8 Q Okay. Now, in 2014, how many reports did you have?
9 People reporting up to you.

10 A It would have been in the neighborhood of four.

11 Q Now, in two -- I want to focus in on 2014. You recall
12 that Ms. Briggs was terminated on April 1st, 2014, correct?

13 A Around there, yes.

14 Q Okay. And as of that time, you were not in charge of
15 investigating claims of discrimination, correct?

16 A No.

17 Q And in fact, if somebody came to you with a claim of
18 discrimination or retaliation, you would direct them to
19 another department who would handle that. Isn't that
20 correct?

21 A Yes.

22 Q So, if somebody came to you with a claim of
23 discrimination, you could not determine whether or not that
24 claim had merit because you did not do the investigation,
25 correct?

1 A I would not. I would pass it forward to the appropriate
2 entity within the organization.

3 Q Now you made the decision to terminate Ms. Briggs. Is
4 that correct?

5 A I did not, no. It was a joint --

6 THE COURT: You did not know?

7 THE WITNESS: I did not. No, I did not make the
8 decision.

9 MS. MATTIACCI: Okay.

10 THE WITNESS: It was a joint decision with the
11 supervisor, Human Resources.

12 THE COURT: Listen.

13 MS. MATTIACCI: Yes?

14 THE COURT: I don't want to have to sit here
15 watching you take notes on that board.

16 MS. MATTIACCI: Okay. I'm so sorry. I was just
17 wanting --

18 THE COURT: It would be --

19 MS. MATTIACCI: -- to clarify.

20 THE COURT: -- all right if you would fill it in
21 afterwards, but ...

22 MS. MATTIACCI: Okay.

23 THE COURT: You know.

24 MS. MATTIACCI: I'll keep it moving, Your Honor. I
25 promise.

1 BY MS. MATTIACCI:

2 Q Mr. Wacker, so you did not make a decision. You're
3 saying that it was a joint decision.

4 A Yes.

5 Q And the joint decision was with who?

6 A It would be with the supervisor, Dr. Wu.

7 Q Okay.

8 A And in conjunction with H -- Human Resources and Deirdre
9 Walton's group reviewing the information that was provided to
10 them.

11 Q Okay. Anybody else make the decision?

12 A No, that would be it.

13 Q Okay. So it was just these two people, Wu and Walton.

14 A Yes.

15 Q Okay. All right. Even though you did not make the
16 decision to terminate, and instead, it was Wu and Walton who
17 made the decision to terminate Ms. Briggs, are you aware of
18 the reasons why Ms. Briggs was terminated?

19 A Yes, some of them.

20 Q Some of them? Okay.

21 And what are some of the reasons that she was
22 terminated?

23 A There were several disciplines, frequently discipline
24 being done. And as the discipline elevates, levels elevate,
25 and the seriousness of those offenses elevate, the university

1 rules and regulations determine what disciplinary action gets
2 taken during that time. And as she would elevate, the
3 reasons, various reasons -- I believe the one that was --
4 that we intended to discipline on her was that she could not
5 complete a travel reimbursement in an electronic system for
6 Dr. Wu. And then she became argutive [sic], disruptive
7 towards staff and -- and others. And it just disrupted the
8 flow of the offices.

9 Q Okay. Are you aware that people complained that Dr. Wu
10 would often scream in his office?

11 A No.

12 Q Had you ever heard anybody say that Dr. Wu screamed in
13 Chinese at his Chinese students?

14 A Other than Ruth, no.

15 Q Okay. Other than Ruth, did you hear that Dr. Wu would
16 scream into Ms. Briggs' face, are you stupid or something?

17 A No.

18 Q Okay. So it's your testimony that, in -- you have never
19 seen Dr. Wu screaming in the building, correct?

20 A That is correct.

21 Q Okay. But you don't work in the same building as him,
22 correct?

23 A Not now, no. And I guess I didn't -- technically, I
24 didn't, either. I was in an adjacent building --

25 Q Right.

1 A -- back then.

2 Q You were in a different building. Okay.

3 A Yes.

4 Q Did you ever hear -- so you did hear the concept that
5 Dr. Wu would scream in Chinese at his students, correct?

6 A Only from Ruth.

7 Q Okay. And when you heard that from Ruth, did that
8 concern you?

9 A No.

10 Q So it's acceptable for Dr. Wu to be screaming at his
11 students in Chinese in the office.

12 A No. But -- but Ruth did not know what he was saying.
13 So how can she determine that it was screaming?

14 Q But you did not go down to find out what he was saying,
15 correct?

16 A No.

17 Q Or interview anybody to see if he was actually
18 screaming, no matter what he was saying; that he was raising
19 his voice.

20 A There was no information given to me, to that effect.

21 Q And you did not need to look into it.

22 A If information was given to me that indicated that, I
23 would have looked into it.

24 Q Well, information was given to you by Ms. Briggs,
25 correct?

1 A And it was in the context of her being corrected for
2 failing to complete a task or something that she probably
3 should have had done for Dr. Wu, that was not done in a
4 timely manner.

5 Q So you just dismissed her statement without doing any
6 investigation into it.

7 A I don't believe there was anything to investigate.

8 Q Or you're saying that Ms. Briggs was terminated because
9 she expressed upset at this travel reimbursement disciplinary
10 action she received, correct?

11 A She was doing it in front of others, frequently, not
12 only in my office, but in her office, and other offices that
13 were under me.

14 Q So, if Dr. Wu was screaming in front of others, should
15 he be disciplined?

16 A If it was brought to my attention, we would have a
17 discussion about it, and it would be handed to the
18 appropriate group to handle it, which is managed by Faculty
19 Affairs, which is a separate area.

20 Q And you never referred it to Faculty Affairs, correct?

21 A No.

22 Q And as far as you know, mister -- Dr. Wu was never
23 disciplined in the time that you were supervising him,
24 correct?

25 A I was not supervising him.

1 Q I'm sorry. In the time that you were overseeing the
2 department.

3 A Not that I'm aware of.

4 Q What other disciplinary actions were lodged against Ms.
5 Briggs that led to her termination?

6 A Well, the -- once -- once again, the one that led to the
7 termination was the failing to put the travel reimbursement
8 into the appropriate university system, and the fact that she
9 was argumentative and disruptive for approximately about
10 three or four days. She just would not relent on that, and
11 was continually disruptive during that three or four days,
12 where it was confirmed that she had access to the system and
13 knew how to do it.

14 Q Okay. But my question was: What other disciplinary
15 actions were lodged against Ms. Briggs that led to her
16 termination?

17 A There was various things where she would not complete or
18 correct travel reservations for high-level guests that were
19 coming in for Dr. Wu.

20 Q She would not -- did you say she would not confirm?

21 A She --

22 Q How --

23 A She would not complete them properly, or would have
24 errors in the dates. She would book the wrong -- the hotel
25 for the wrong date, or an airline for a wrong date.

1 Q Okay. So let me break it down because I want to be
2 clear. How many times did she book the wrong date?

3 A The -- I know that -- I believe that there's one that
4 was written up, and there may have been others that we would
5 not write up because they were not reported in a timely
6 manner.

7 Q So there's one wrong date, in which she was written up,
8 but you're saying there's others in which there's no
9 documentation about.

10 A Yes.

11 Q Okay. And the one wrong date that you are referring to,
12 was that for a hotel?

13 A It was either a hotel or an airline ticket. I --

14 Q Do you know, sitting here today?

15 A I believe it was the hotel reservation.

16 Q Is there any other disciplinary actions lodged against
17 Ms. Briggs that led to her termination?

18 A I believe there was an incident where she walked out of
19 a meeting, just simply got up and walked out of the meeting.

20 Q When did that happen?

21 A I don't recall the exact dates, but Human Resources
22 should have the appropriate disciplinary action for her.

23 Q Any other disciplinary actions lodged against Ms. Briggs
24 that led to her termination?

25 A Not that I'm aware of.

1 Q Now, in regards to the date that was booked wrong in the
2 hotel, isn't it true that Ms. Briggs, when she was told that
3 the date was wrong, booked -- still booked the hotel date for
4 the time the professor was coming in, and there was no
5 problem because the professor was able to stay at the hotel?

6 A The professor did stay at a hotel, yes.

7 Q Okay. He didn't miss the meeting.

8 A No. But that upset Dr. Wu because the -- it's -- the
9 individuals that he brings in are well-known researchers and
10 those types of individuals, and it doesn't leave a strong
11 opinion of Temple and the administrative services, if they
12 can't get his room booked right.

13 Q In regards to the hotel room, it was booked for the
14 correct night, correct?

15 A No, I don't believe it was.

16 Q It was originally booked for a night, and then it --
17 that was changed before the time in which the professor came
18 to stay. Isn't that correct?

19 A I do not know that.

20 Q And let's talk about Number 3 there. You are aware that
21 Ms. Briggs had a meeting with Dr. Wu, in which he asked her
22 how old she was. When she responded 57, he told her, well,
23 in China, we put woman out to pasture when they're 55. Do
24 you recall that?

25 A She mentioned something along those lines, in a general

1 office, with a bunch of other individuals around.

2 Q Including you, correct?

3 A Yes.

4 Q And she also relayed that, in response to that, she
5 said, with all due respect, Dr. Wu, we are not in China, we
6 are in the United States.

7 A I don't recall her conveying that to me in that
8 conversation.

9 Q Now you're aware that Ms. Briggs' birthday is November
10 10th?

11 A I am -- I was not; I am now.

12 Q And you're aware that Ms. Briggs relayed this to you on
13 November 9th, correct?

14 A I don't recall. If that's the date in the
15 documentation, then it would be.

16 Q Okay.

17 (Participants confer)

18 Q I'm going to ask to you, Mr. Wacker, to turn to that --
19 to the binder in your -- a page in your binder, which is --
20 P-3 -- is P-3. So the tab that's Number 3, can you turn to
21 that?

22 A Okay.

23 Q Now you recognized this as a disciplinary action that
24 was given to Ms. Briggs, dated November 11th, 2011, correct?

25 A Yes.

1 Q And your -- excuse me -- your signature is at the
2 bottom. Is that correct?

3 A It is not.

4 Q Okay. Whose signature is that?

5 A It is Dr. Wu's signature.

6 Q Did you review this before it was given to her?

7 A It would have been -- yes. It would have been reviewed
8 with myself and Labor Relations, Deirdre Walton's group. And
9 Drew DiMeo may have been involved in this, as well, in terms
10 of gathering the information, making sure that that
11 information got conveyed to Labor Relations. And only at
12 that point does it come back to me, as a facilitator, to help
13 process this.

14 MS. MATTIACCI: Okay. Your Honor, I'd move for the
15 admission of P-3.

16 THE COURT: Any objection?

17 MR. HARRIS: No objection.

18 THE COURT: It's admitted.

19 (P-3 received in evidence)

20 MS. MATTIACCI: Your Honor, may I have permission
21 to publish?

22 THE COURT: All right. Yes.

23 MR. HARRIS: And Your Honor, we have a stipulation
24 by and between counsel. We have no objection to any of these
25 exhibits that have been previously identified as plaintiff's

1 exhibits.

2 THE COURT: All right. Thank you.

3 (Pause in proceedings)

4 BY MS. MATTIACCI:

5 Q Okay. So we can see, on this disciplinary writeup for
6 Ms. Briggs, that it says the date of the incident is November
7 9th, 2011.

8 (Participants confer)

9 MR. HARRIS: Objection.

10 Q And it says the --

11 MR. HARRIS: Your Honor, objection. It doesn't say
12 date of incident, it says the date, period.

13 THE COURT: Is that correct?

14 MS. MATTIACCI: It is. It says the date.

15 THE COURT: The date.

16 BY MS. MATTIACCI:

17 Q So the date on there is November 9th, 2011, correct? At
18 the top, next to "Department"? Do you see that?

19 A The date says -- yes.

20 Q Okay. And would that be the date of the incident for
21 which the person is being written up?

22 A No, that's the date -- I believe that's the date that
23 they were written up.

24 Q The date that they were written up. Okay.

25 A Yes.

1 Q So it may -- it does not indicate the day in which the
2 incident took place, for which they are being written up?

3 A I do not believe that it did.

4 Q Okay. Where on the document does it indicate the date
5 on which the incident occurred for which the employee was
6 being written up?

7 A I don't see one. That may be in the notes that would
8 have been conveyed to Labor Relations.

9 Q Okay. So let's scroll down. Do you see there in the
10 middle, it says, "Written Warning," with a checkmark?

11 A Yes.

12 Q And then it says, "Dates of Action, 11/9/2011"?

13 A Yes.

14 Q Okay. So is that indicating the date in which the
15 incident took place for which the person is being written up?

16 A No. It would be the date that we intended to take the
17 action. We might have sent this over to Labor Relations on
18 the 9th. And then, as you can see, it didn't get signed
19 until the 11th.

20 Q Okay. So scrolling down further -- yeah -- the middle
21 says:

22 "Explanation, violation of Rule B-11,
23 unprofessional/inappropriate conduct."

24 Is that why she was written up, for that reason?

25 A Yes.

1 Q Okay. And then scroll further to the bottom of the
2 document. And that's the employee's signature, hers, Ruth
3 Briggs', correct?

4 A Yes.

5 Q Signed on November 11th?

6 A Yes.

7 Q And then Dr. Wu's signature, November 11th, correct?

8 A Yes.

9 Q Nowhere on this document does it explain what happened
10 to cause her to be written up for inappropriate --
11 unprofessional, inappropriate conduct, correct?

12 A Correct.

13 Q Why was she written up, at this time?

14 A I believe the -- any supporting documentation or
15 interaction with HR, that they would have -- I believe it
16 would be it was because she walked out of a meeting in Dr.
17 Wu's office.

18 Q Do you believe there's supporting documentation to that
19 effect?

20 A Yes.

21 Q Have you reviewed supporting documentation to that
22 effect?

23 A No. Drew DiMeo or Deirdre Walton would have that.

24 Q But -- so you haven't seen any documentation of that,
25 correct?

1 A I have not.

2 Q And your belief that it had to do with walking out of a
3 meeting, is based upon you -- you weren't there, correct?

4 A No. It would have been through informal conversations
5 with Drew DiMeo. And once again, I'm a facilitator in any of
6 these actions. The biggest thing that I do is make sure
7 that, hey, if something did happen, what rules apply to it.
8 And then it's given to Human Resources and Labor Relations to
9 say, yes, this is a violation, yes, this is a viable action
10 to take. And then, when that comes back, in some cases, I
11 will present this to the employee because the supervisor, you
12 know, may not want to or want to avoid a confrontation.

13 Q Isn't it true that this writeup was given to Ms. Briggs
14 because of what she said to Dr. Wu at that meeting, with all
15 due respect, we're not in China, we're in the United States?

16 A No.

17 Q You're certain of that, without having any supporting
18 documentation of it?

19 A Yes, I would be.

20 Q And even though the date of the writeup is November 9th,
21 2011, which is the day before her birthday, in which the
22 conversation took place, correct?

23 A That's correct.

24 Q And there's nothing on this document that says she was
25 written up for walking out of the meeting.

1 A No.

2 Q Any emails you know of, to describe what happened to
3 lead to this disciplinary action being lodged against Ms.
4 Briggs?

5 A I don't recall any to me.

6 Q Do you recall reviewing any to anybody about this
7 writeup?

8 A I do not recall.

9 Q I'm going to ask you to turn to Tab 62 in the binder,
10 please.

11 A (Witness reviews exhibits)

12

13 Q Do you see Tab 62, Mr. Wacker?

14 A Yes.

15 Q I'd like you to turn to Page 7 of that document.

16 A (Witness reviews exhibit)

17 MR. HARRIS: Excuse me, Counsel. Can you provide
18 the Bates Stamp?

19 (Participants confer)

20 MS. MATTIACCI: It's the interrogatory responses.

21 MR. HARRIS: Okay. Very well. Thank you.

22 BY MS. MATTIACCI:

23 Q I'm sorry. Page 3 of the document.

24 A Okay.

25 Q Now these are the interrogatory responses by the

1 Defendant Temple to questions -- so the interrogatories are
2 questions. Do you understand that?

3 A Yes.

4 Q Okay. So, in the course of this case, we, Ms. Briggs'
5 side, sent questions over to Temple for them to answer under
6 oath. Do you understand that?

7 A Yes.

8 Q And then, in response, Temple submitted written
9 questions --

10 THE COURT: Written answers.

11 Q -- and verified them under --

12 THE COURT: Written answers.

13 Q Written answers. I'm sorry. Written answers, and swore
14 that they were true and correct. Do you understand that?

15 A Yes.

16 Q Okay. So, in looking at P-62, which are the answers to
17 -- that Temple provided.

18 (Participants confer)

19 MR. HARRIS: Excuse me, Your Honor. We just need
20 to find that document.

21 THE COURT: All right.

22 MR. HARRIS: The Court's indulgence?

23 (Participants confer)

24 MS. MATTIACCI: Are you okay to proceed, Mr.
25 Harris?

1 MR. HARRIS: I don't have it yet.

2 MS. MATTIACCI: Okay. It's ...

3 (Participants confer)

4 MR. HARRIS: Your Honor, may we see you at sidebar?

5 THE COURT: Yes.

6 (Sidebar)

7 MR. HARRIS: (indiscernible) I'm sorry. In
8 plaintiff's exhibits that were provided to us, we only have
9 the first page, so we don't have the entire list of
10 interrogatory responses.

11 MS. MATTIACCI: It's their interrogatory responses.

12 MR. HARRIS: I understand. But that -- in their
13 exhibits that they've identified as plaintiff's exhibits,
14 they only identified the first page. So, if they're like us
15 to look through the entire exhibit, I'm happy to do so, but I
16 have to go get it.

17 THE COURT: Where is it?

18 MR. HARRIS: I'm sure it's in my -- one of my
19 boxes.

20 MS. MATTIACCI: I can give you a copy.

21 MR. MUNSHI: We have a copy.

22 MR. HARRIS: That's fine.

23 (Participants confer)

24 THE COURT: You'll give him a copy?

25 MR. HARRIS: Yes.

1 MR. MUNSHI: Yeah.

2 MR. HARRIS: That's fine. Okay. Thank you.

3 THE COURT: Thanks.

4 (Sidebar concluded)

5 MR. HARRIS: We're ready to proceed, Your Honor.

6 Thank you.

7 MS. MATTIACCI: Okay.

8 THE COURT: All right. Thanks.

9 BY MS. MATTIACCI:

10 Q Okay. Mr. Wacker, in looking at the answers by Temple,
11 Question Number 1 to Temple was:

12 "Set forth each and every legitimate,
13 nondiscriminatory reason as to why plaintiff was
14 terminated on or about April 1st, 2014, and
15 describe the factual basis for this decision."

16 Do you see that?

17 A Yes.

18 Q Temple's answer was, first:

19 "Objection to the extent it's over-broad and unduly
20 burdensome, seeks information neither relevant, nor
21 reasonably calculated to lead to discovery of
22 admissible evidence. Temple further objects
23 because Briggs was not terminated, but rather
24 resigned effective April 1st of 2014, in lieu of
25 termination. Subject to and without waiver of or

1 limitation of the foregoing objections and
2 conditions, Temple University responds as follows."

3 Now, first of all, Ms. Briggs did not voluntarily
4 resign. Isn't that correct?

5 A As far as I understand, no. She handed in a resignation
6 letter to Human Resources.

7 Q She didn't have a choice, though. Her position -- she -
8 - her job at Temple was being terminated, correct? Due to
9 the reasons that you stated earlier, correct?

10 A She was being given disciplinary action that would have
11 included termination, yes.

12 Q Okay. So she didn't have a choice in the matter. She
13 was being -- she was forced out, correct?

14 A She chose to resign, not be fired.

15 Q Okay.

16 A So that is a choice that she made.

17 Q So, if she didn't choose the word "resignation," she
18 would have been terminated, involuntarily, correct? She
19 didn't have a choice --

20 A Correct.

21 Q -- to stay there.

22 A Correct.

23 Q Correct? Okay.

24 And the reason that there was given the ability to use
25 the word "resignation" was so that she did not get

1 unemployment compensation?

2 A I have no idea.

3 Q Okay. Now the very first thing that Temple says is the
4 reason why Ms. Briggs was terminated is because she had
5 "performance issues throughout her tenure at Temple."

6 Sentence 1. Do you see that?

7 A Yes.

8 Q Okay. Now, as of the time of her termination, Ms.
9 Briggs had been at Temple for 13 years, correct?

10 A I guess so. I don't know the exact years.

11 Q Okay. Isn't it true that Ms. Briggs did not -- this
12 statement by Temple is a false statement in the -- in their
13 interrogatory responses? Isn't that correct?

14 A I do -- no, I do not believe so.

15 Q So you believe that this statement is true, that Ms.
16 Briggs had performance issues throughout her tenure at
17 Temple.

18 A Yes. There was always performance issues throughout,
19 and a lot of the times, they weren't written up.

20 Q Okay. So, going back to the list of reasons why Ms.
21 Briggs was terminated, you did not say that she had
22 performance issues throughout her employment. Do you want to
23 add that reason to this list now?

24 A Sure.

25 Q Okay.

1 (Pause in proceedings)

2 A Those first three reasons are performance issues, as
3 well.

4 Q Mr. Wacker, there wasn't a question posed; you have to
5 wait for a question.

6 So, when you were first questioned, you did not say that
7 there were performance issues throughout her employment at
8 Temple that led to her termination, correct?

9 A I did not properly phrase it that way, yes.

10 Q I would ask you to turn to P-1.

11 A (Witness reviews exhibits)

12 Q It's going to be the very first document in that binder.

13 A What is it?

14 Q 1.

15 A Where is it?

16 Q 1, 1.

17 A Oh.

18 (Witness reviews exhibits)

19 Q Now this is a document, a Temple University document, HR
20 Affirmative Action Authorization. Do you see that?

21 A Yes.

22 Q And the date on here is February 14th, 2014, at the top
23 -- I mean, sorry, 2005.

24 A Okay.

25 Q Okay? Now, at this point in time, Ms. Briggs had been

1 employed by Temple for four years, correct?

2 A I don't recall.

3 Q Do you believe that she had just started at Temple?

4 A This would have been a document, I believe -- this would
5 have been the document that brought her into the Dean's
6 Office, and her position into the Dean's Office.

7 Q Right. So this is a document that is showing that her -
8 - she was transferred from one department to the other.

9 A Yes.

10 Q So she had been working for Temple for several years as
11 of the time of this.

12 A Yes.

13 Q And her new position was going to be Executive Assistant
14 Senior Coordinator in the College of Science and Technology,
15 correct?

16 A Yes.

17 Q I'd like to go to the second page of this document.

18 (Pause in proceedings)

19 Q Okay. The second page gives an explanation for why Ms.
20 Briggs was selected for this position, correct?

21 A Yes.

22 Q Okay. I'm going to blow it up for the jury.

23 Okay. It says:

24 "After careful review of all credentials and
25 qualifications, the most qualified candidate was

1 selected for the following imperative reasons. The
2 candidate was selected based on her outstanding
3 communication skills, both verbal and written. Her
4 previous work experience in developing and writing
5 grant applications, providing editorial assistance,
6 customer service skills, prior university
7 experience, and education make her the best
8 qualified candidate."

9 Do you see that?

10 A Yes.

11 Q And that was in regards to Ms. Briggs, correct?

12 A Yes.

13 Q And then, if you look at the third page of that document
14 -- oh, by the way, at the bottom of the second page, that's
15 your signature there, right?

16 A Yes.

17 Q As Director?

18 A Yes.

19 Q And on the third page of this document, it gives the
20 candidate summary of all the candidates that were considered
21 for this position that Ms. Briggs was awarded, correct?

22 A Yes.

23 Q So she beat out 18 other candidates for this position in
24 2005, correct?

25 A This document appears to indicate that only seven of

1 those were interviewed, but yes. The answer would be yes.

2 Q Only seven were interviewed?

3 A Were interviewed.

4 Q But there were 19 potential candidates, and she was
5 selected.

6 A Yes.

7 Q Okay. So going back to P-62.

8 A (Witness reviews exhibits)

9 Q When Temple says, as their very first reason, in the
10 first sentence, as to the reason that Ms. Briggs was
11 terminated, that she had performance issues throughout her
12 tenure at Temple, that is a false statement, isn't it?

13 A From the time she was in the Dean's Office forward, she
14 did have performance issues. Prior or that, I don't know.

15 Q She started at the Dean's Office when?

16 A What was the date on the document we just--

17 Q That was 2005.

18 A 2005. It would be around 2005.

19 THE COURT: Okay. And would this be a good time to
20 recess for lunch?

21 MS. MATTIACCI: Sure, Your Honor. We can do that.

22 THE COURT: Okay. It's -- despite what that clock
23 says, it's about 12:30. We recess one hour for lunch.
24 Again, don't discuss the case, even among yourselves. If you
25 can't -- if you shouldn't discuss the case among yourselves,

1 then certainly you should not discuss it with anyone outside
2 of the jury, nor allow anyone to discuss it with you or in
3 your presence.

4 And I realize that can be a problem going down on
5 the elevator, sometimes. But I'm telling counsel to caution
6 their witnesses who may be around to stay clear of the jury.

7 Recess for lunch until 1:30. The jury is excused.

8 THE COURT OFFICER: All rise.

9 THE COURT: You may step down.

10 (Luncheon recess taken at 12:30 p.m.)

11 (Afternoon Session Continues in Separate Transcript)

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CERTIFICATION

We certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter to the best of our knowledge and ability.

Transcriptionists: William J. Garling and Coleen Rand



July 16, 2018

Coleen Rand, AAERT Cert. No. 341

Certified Court Transcriptionist

For Advanced Transcription

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